

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WINERIES OF THE OLD MISSION PENINSULA)	
ASSOCIATION, <i>et al.</i> ,)	
Plaintiffs,)	
)	No. 1:20-cv-1008
-v-)	
)	Honorable Paul L. Maloney
PENINSULA TOWNSHIP,)	
Defendant,)	
)	
and)	
)	
PROTECT THE PENINSULA, INC.,)	
Intervenor-Defendant.)	
)	

ORDER GRANTING IN PART MOTION FOR LEAVE TO FILE REPLY BRIEF

Intervenor-Defendant Protect the Peninsula, Inc. (“PTP”) has a pending motion to dismiss the Wineries’ state-law claims (ECF No. 250). In accordance with this Court’s order (ECF No. 247), the Wineries and the Township responded to the motion to dismiss (ECF Nos. 263, 272). The Wineries now seek leave from the Court to reply to the Township’s response to PTP’s motion to dismiss (ECF No. 276). The Wineries’ proposed reply brief responds to arguments raised by the Township regarding the availability of damages for the Wineries’ state-law claims: preemption and violations of the Michigan Zoning Enabling Act. At first glance, the availability of damages for the Wineries’ state-law claims does not appear to be relevant in analyzing the threshold question of whether this Court may exercise supplemental jurisdiction over such claims under 28 U.S.C. § 1367. However, the Township’s arguments concerning the availability of damages for the state-law claims may be

relevant in determining whether the Wineries' state-law claims raise novel or complex issues of state law, and thus, whether the Court should, in its discretion, decline to exercise supplemental jurisdiction. *See id.* § 1367(c)(1). As such, given the complex nature of this litigation and to ensure that the record is complete, the Court will grant the Wineries' motion for leave to file their reply brief. *See* W.D. Mich. LCivR 7.2(c) (allowing the Court to permit additional briefing). Accordingly,

IT IS HEREBY ORDERED that the Wineries' motion for leave to file a reply brief to the Township's response (ECF No. 276) is **GRANTED** in part. Specifically, although the Court will permit the Wineries to file their proposed brief, the Court is not yet inclined to order PTP and the Township to "split" the permitted word count for dispositive motions, as outlined in this District's local rules. *See* W.D. Mich. LCivR 7.2(b)(i). At this time, the Court finds such a request to be premature, and it will **DENY** without prejudice the Wineries' motion regarding Defendants' dispositive motion word count obligations.

IT IS FURTHER ORDERED that the Clerk of Court shall **ACCEPT** the Wineries' proposed reply brief (ECF No. 277-1) for filing.

IT IS SO ORDERED.

Date: October 17, 2022

/s/ Paul L. Maloney

Paul L. Maloney
United States District Judge